

ADMINISTRATION AND FINANCE COMMITTEE

DATE: March 4, 2008

CALLED TO ORDER: 5:31 p.m.

ADJOURNED: 7:14 p.m.

ATTENDANCE

Attending Members

Marilyn Pfisterer, Chair
Paul Bateman
Susie Day
Barbara Malone
Jackie Nytes
Joanne Sanders
Ryan Vaughn

Absent Members

AGENDA

PROPOSAL NO. 73, 2008 - appoints Christine Scales to the Space Allocation Committee
"Do Pass" Vote 6-0

PROPOSAL NO. 74, 2008 - appoints Christine Scales to the City-County Administrative Board
"Do Pass as Amended" Vote 6-0

PROPOSAL NO. 78, 2008 - reappoints Jackie Nytes to the City-County Internal Audit Committee
"Do Pass" Vote 6-0

PROPOSAL NO. 79, 2008 - reappoints Beth White to the Information Technology Board
"Do Pass" Vote 7-0

PROPOSAL NO. 80, 2008 - reappoints Michael Rodman to the Information Technology Board
"Do Pass" Vote 7-0

PROPOSAL NO. 81, 2008 - reappoints Sheriff Frank Anderson to the Information Technology Board
"Postponed" until March 25, 2008 Vote 7-0

PROPOSAL NO. 82, 2008 - directs the County Auditor to withhold the paychecks of the Coroner and certain deputy coroners until they receive certification by the Indiana State Coroners Training Board

“Do Pass as Amended”

Vote 4-3

PROPOSAL NO. 116, 2008 - appoints Richard Petrecca to the County Property Tax Assessment Board of Appeals

“Postponed” until March 25, 2008

Vote 7-0

PROPOSAL NO. 117, 2008 - appoints Thomas Grinslade to the County Property Tax Assessment Board of Appeals

“Do Pass”

Vote 7-0

ADMINISTRATION AND FINANCE COMMITTEE

The Administration and Finance Committee of the City-County Council met on Tuesday, March 4, 2008. Chair Marilyn Pfisterer called the meeting to order at 5:31 p.m. with the following members present: Paul Bateman, Susie Day, Jackie Nytes, and Ryan Vaughn. Barbara Malone and Joanne Sanders arrived shortly thereafter. Representing Council staff was Robert Elrod, General Counsel.

Chair Pfisterer asked for consent to move Proposal No. 117, 2008 up on the agenda to be heard after Proposal No. 81, 2008 and to hear Proposal Nos. 73 and 74, 2008 together. Consent was given.

PROPOSAL NO. 73, 2008 - appoints Christine Scales to the Space Allocation Committee

PROPOSAL NO. 74, 2008 - appoints Christine Scales to the City-County Administrative Board

Councillor Scales said that she has been asked to serve, and it is her privilege to serve with pleasure. She said that she is taking on this challenge, although it is out of her comfort zone, because she is not sure what is completely involved in serving on the committees. She said when asked to take on challenges, she happily performs research as necessary, displays a can-do attitude, is not afraid to ask questions, and is a very hard worker. Councillor Scales said that she will apply all of these qualities to help her serve on the committees. She said that she will also rely on advice from more experienced people serving on the committees. Councillor Scales said that she has been a long-time resident of Indiana, graduating from Indiana University with a Bachelors Degree. She said that she also received a post-graduate grant to study at the Free University of Berlin, where she studied and researched propaganda techniques. She has held various jobs in media, public relations, and sales until she decided to stay home to raise her family. She said that she has always remained involved in community affairs. Councillor Scales added that she has a thorough knowledge of Indianapolis, and in her capacity as a City-County Councillor, she has gained more knowledge about how the City works and who to speak to in order to complete tasks and achieve goals.

Chair Pfisterer said that Proposal Nos. 73 and 74, 2008 address appointments that are to be filled by the Council with a Council member. She said that although she does not know Councillor Scales very well, she is impressed by her can-do attitude and willingness to research any assignment.

Councillor Nytes said that she has known Councillor Scales for a long time, as they have worked together on various projects. She said that she is privileged to supply Councillor Scales with all of the files from her previous service on the Space Allocation Committee.

Councillor Bateman said that he believes that Councillor Scales will do an excellent job, as he has had the privilege of working with her in the community on projects such as the Phoenix Apartments, and he has witnessed her can-do attitude.

[Clerk's note: Councillor Sanders arrived at 5:36 p.m.]

Chair Pfisterer stated that there is an amendment to Proposal No. 74, 2008. Councillor Nytes moved, seconded by Councillor Day, to "Amend" Proposal No. 74, 2008 to strike the words "City-

County Administrative Board” everywhere they appear and replace them with the words “Audit Committee.” The motion carried by a vote of 6-0.

Councillor Bateman moved, seconded by Councillor Vaughn, to forward Proposal No. 73, 2008 to the full Council with a “Do Pass” recommendation and to forward Proposal No. 74, 2008 to the full Council with a “Do Pass as Amended” recommendation. The motion carried by a vote of 6-0.

PROPOSAL NO. 78, 2008 - reappoints Jackie Nytes to the City-County Internal Audit Committee

Councillor Nytes said that she appreciates the opportunity to continue to serve on the Internal Audit Committee. It has been a very important place for discussion in the last couple of years, as so many of the city and county financial activities have been merged. She said that there remains more room for mergers in moving forward, but she believes that bringing all of the county activities under the purview of the Audit Committee was really good progress and she is excited about how that will play out.

Councillor Sanders moved, seconded by Councillor Day, to forward Proposal No. 78, 2008 to the full Council with a “Do Pass” recommendation. The motion carried by a vote of 6-0.

[Clerk’s note: Councillor Malone arrived at 5:39 p.m.]

PROPOSAL NO. 79, 2008 - reappoints Beth White to the Information Technology Board

Beth White, County Clerk, said that traditionally the Clerk has served on the Information Technology (IT) Board, and it has been a privilege to work with Shital Patel, Chief Information Officer (CIO), Information Services Agency (ISA), and her team. She said that she believes that the ISA team is doing an excellent job. Ms. White said that though she is not a very tech-savvy person, the Clerk’s Office has a great deal of interaction in terms of their IT needs, particularly with the court system and election system. She said that she appreciates the opportunity to serve on the IT Board. She added that her background includes a law degree from Georgetown University. She has been practicing law for about 17 years, and she was raised in Bloomington, Indiana.

Councillor Sanders moved, seconded by Councillor Bateman, to forward Proposal No. 79, 2008 to the full Council with a “Do Pass” recommendation. The motion carried by a vote of 7-0.

Ms. White commented that the special election for Congressional District 7 will be on Tuesday, March 11, 2008, and the polls will be open from 6:00 a.m. to 6:00 p.m. Chair Pfisterer asked about the ability to cast absentee ballots. Ms. White answered that in-office absentee ballots can be cast in the Clerk’s Office during the week from 8:00 a.m. to 5:00 p.m., on Saturday from 10:00 a.m. to 5:00 p.m., Sunday 11:00 a.m. to 5:00 p.m., and on Monday, March 10, from 8:00 a.m. to noon. She added that the mail-in deadline for absentee voting has passed.

Councillor Sanders asked if the in-office voting ballots will be distributed to the precincts to be included in the precinct packet or sent directly to the central location. Ms. White answered that the absentee ballots will be distributed to the precincts to be processed by the poll workers at the

precincts, and then all of the paper ballots will be sent to the central count site, the Convention Center, for processing on that evening.

Councillor Malone added that the voting site for some voters may have changed since the last election, and she encouraged voters to find out where to go ahead of time. Chair Pfisterer asked Ms. White to explain how people can find their polling place. Ms. White said that the number of precincts in Marion County has been reduced since the last election and many voters will vote in a different place. She said that the polling locations were determined by Mayor Gregory Ballard and his staff. Voters may call 327-VOTE (8683) to find out where their polling location is or they may go to the polling place locator, found on the Clerk's home page and the Election Board's home page at www.indy.gov/election08. Voters should put in their home address and it will bring up whether or not the person lives in the 7th Congressional District and where they need to go to vote. Ms. White added that the Voter Registration Office has also sent postcards out to every registered voter in Marion County detailing where to vote and what precinct voters now live in, which is a statutory requirement when a county does a reprecincting. All voters should receive those postcards no later than Friday, March 7. Chair Pfisterer encouraged voters to either call the Clerk's Office, the Voter Registration Office, or go to the website to find their polling location in case postcards are not received in time.

PROPOSAL NO. 80, 2008 - reappoints Michael Rodman to the Information Technology Board

Michael Rodman, Marion County Treasurer, said that he has been the Treasurer for the last three years, and has served on the IT Board for about the same amount of time. He said that he would like to be reappointed to the IT Board because he has learned a great deal of information since serving on the Board. Mr. Rodman said that the Treasurer's Office heavily relies on the computer for business operations. He said that the property system was designed in the early 1970s and was to have a useful life of five years, but it has constantly been modified to adjust to sending out tax bills. The system is now on its last leg, and the Council fortunately approved a new property system that ISA is in the process of installing. He said that it is currently being tested, and the new system will be very public-friendly and will bring the Treasurer's Office into the 21st Century. Mr. Rodman said that he feels that it is important to retain the experienced board members to help with the addition of new board members. He said that Ms. Patel is planning a retreat for the board to discuss future endeavors.

Mr. Rodman said that he was a banker for 32 years before becoming the Treasurer, during which time he witnessed how IT improved the banking industry. He said that it is very important that local government stay at the cutting edge of where IT needs to be, because the taxpayers tend to expect that.

Councillor Sanders commented that there are definitions within the ordinance that require that the IT Board consist of at least three of the four constitutional officers, because of the amount of IT that those offices depend on. She said that Mr. Rodman's experience, as well as his position, should ensure that he is retained on the board.

Councillor Bateman moved, seconded by Councillor Nytes, to forward Proposal No. 80, 2008 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 7-0.

PROPOSAL NO. 81, 2008 - reappoints Sheriff Frank Anderson to the Information Technology Board

Chair Pfisterer asked if there is a representative of Sheriff Anderson present. Seeing none, Councillor Sanders moved, seconded by Councillor Vaughn, to "Postpone" Proposal No. 81, 2008 until March 25, 2008. The motion carried by a vote of 7-0.

PROPOSAL NO. 117, 2008 - appoints Thomas Grinslade to the County Property Tax Assessment Board of Appeals

Mr. Grinslade said that he is asking to be reappointed, as it is an exciting time with property taxes and he would like to continue to serve on the board. He said that he has served on the board for 17 years, and his background is in construction. He used to build homes and has been the past President of the Builders Association of Greater Indianapolis and Vice President of the Real Estate Board. He added that he is a Civil Engineer, with a degree from Rose-Hulman.

Councillor Nytes asked Mr. Grinslade to explain the responsibilities of the Property Tax Assessment Board of Appeals (PTABOA). She said that she believes it to be an immensely valuable board in terms of ensuring that people are treated fairly with regard to property taxes. Mr. Grinslade answered that the board is made up of four members, two Republican and two Democrat, of which two must be Level II Assessors, and includes the County Assessor as a member. He said that the board generally meets once a month and hears appeals on property taxes. Most of the Marion County property tax resolutions are handled at the township level, but in cases where resolution is not possible at the county level, the case must be approved by the PTABOA. Mr. Grinslade added that the board also hears cases with regard to property taxes. Councillor Nytes asked if Mr. Grinslade is aware of the number of appeals that come before the board. Mr. Grinslade answered that it depends on the current issues. For example, when the county went to the Fair Market Value, there were possibly 12,000 to 15,000 appeals that the Assessor had to handle. But the most recent number involves approximately 79,000, due to the reassessment. However, it is uncertain whether there will be more or less once the reassessment is complete. Councillor Nytes said she feels that it is important to acknowledge how complicated the assessment process is and how much work is involved to ensure equality for the taxpayers. She said that she also believes that the work of the PTABOA is very critical to the success of the assessment system. Mr. Grinslade commented that the current, as well as previous, County Assessors and their staffs have all done excellent jobs, and the public has no idea of the work and dedication that is necessary to provide equality and fairness with regard to taxes.

Councillor Vaughn moved, seconded by Councillor Sanders, to forward Proposal No. 117, 2008 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 7-0.

PROPOSAL NO. 82, 2008 - directs the County Auditor to withhold the paychecks of the Coroner and certain deputy coroners until they receive certification by the Indiana State Coroners Training Board

Alfie Ballew, Chief Deputy Coroner, Marion County Coroner's Office, said that she has been with the Coroner's Office for ten years. During her initial appointment, she was also appointed as a

Deputy Coroner, because information was found within the office dating back to 1991 under Coroner Carl Manders, that all employees of the Coroner's Office were sworn in as Deputy Coroners. She said that it included Administrative Assistants, Deputy Coroners, and Secretaries. She added that all staff is sworn in again as Deputy Coroners under each new Coroner. Ms. Ballew read a form that is used with the appointments of the staff. She stated that the form states each employee's title, according to their Human Resource record, and includes an office oath stating that the employee will perform their duties as a "Deputy Coroner." The term "Deputy Coroner" refers to employees that have been sworn in under the new Administration. She said that with respect to employees John Martin and Michael Gillespie, they were appointed as "Deputy Coroners." However, their official Human Resource titles are not Deputy Coroners. Ms. Ballew said that Michael Gillespie is the Maintenance Supervisor/Building Engineer of the Coroner's Office and does not conduct death investigations. Mr. Gillespie has been employed with the Coroner's Office since 2002, and went through the Coroner Certification Training Course in October 2007 in an effort to further enhance his abilities and to cross-train in the event of an adverse mass destruction. Ms. Ballew said that the law, prior to July 2007, did not specify that an appointed Deputy Coroner must be able to conduct death investigations. From a Marion County Coroner's Office policy perspective, death investigators are those who are certified and able to conduct death investigations under very limited supervision. Ms. Ballew said that Mr. Gillespie should realistically have one year from the date of completing the Training Course to complete the certification process. However, the new legislation states that certification must be obtained within one year of employment, but Mr. Gillespie has been employed since 2002, making that requirement unrealistic. She added that Mr. Gillespie is employed as a full-time Building Engineer for the Coroner's Office, but will, however, complete the certification soon.

Ms. Ballew said in Mr. Martin's case, he was appointed in 2005. He is a retired police officer who conducted accident investigations. She said that he was hired under the assumption that he would be hired as an Investigating Deputy Coroner to conduct death investigations. However, after further review, Ms. Ballew found that it was not a good fit for Mr. Martin and she removed him from that position and reassigned him to assist Mr. Gillespie. Therefore, Mr. Martin does not conduct death investigations for the Coroner's Office. Ms. Ballew added that death investigations performed for the Coroner's Office are done by six full-time and four part-time Deputy Coroners that are fully certified. Ms. Ballew asked that further study be done, through the Committee, as well as through communication with the state training board, to determine what the policies of the new law mean for each county. She asked that the Committee not withhold the pay checks of John Martin and Michael Gillespie with regard to the clarification of what their roles and responsibilities are within the office.

Mr. Gillespie said that he has been employed with the Marion County Coroner's Office for the past six years to maintain the building. He said that the possible withholding of his paycheck has put a strain on his family. He said that he took the training and has passed nine out of ten sections, with one section to complete, but many things have happened with the maintenance of the building, and he has not been able to complete that last portion. He said that he took the course for cross-training purposes, but he does not perform death investigations.

Councillor Vaughn asked Mr. Gillespie to describe his day-to-day responsibilities at the Coroner's Office. Mr. Gillespie said that he performs custodial and maintenance work for the building,

including, but not limited to, cleaning all rooms, emptying trash, equipment repair, and electrical work. Councillor Vaughn asked how many people make up the maintenance staff. Mr. Gillespie answered that it consists of himself, and Mr. Martin part-time. Councillor Vaughn asked Mr. Gillespie why he decided to cross-train, given his current position. Mr. Gillespie said that he spent ten years working with the Drugs of Abuse program with the Crime Lab before the Probation Department took control of the department. He then joined the Coroner's Office when Indiana University decided to obtain a new building in order to continue performing autopsies. He said that the move required the Coroner's Office to hire someone with the ability to maintain a commercial building. He said that the Coroner's Office hired him because he has background in general and nuclear power construction and three years experience as the Assistant Building Engineer of the City-County Building. Mr. Gillespie said that in dealing with maintenance difficulties within the operating room and walk-in coolers, he is very close to the pathology operations and felt that it would be beneficial to learn more about the process in order to be available to help in the event of a mass disaster. Ms. Ballew added that Mr. Gillespie also has an education and teaching background, which contributes to his ability to relocate to off-site locations in times of distress. Mr. Gillespie's knowledge of the investigation process can help provide the necessary equipment and accommodations during these types of occasions.

Councillor Malone asked when Mr. Gillespie was sworn in as a "Deputy Coroner." Mr. Gillespie answered that he was sworn in under former Coroner John McGoff in 2002, and again under current Coroner, Dr. Kenneth Ackles.

Councillor Bateman asked if Mr. Gillespie was asked to cross-train in the event of an emergency. Mr. Gillespie answered in the affirmative, but stated that maintaining his position is not dependent upon his training, because it is not his primary function.

Councillor Nytes asked Ms. Ballew how many employees have the "Deputy Coroner" title. Ms. Ballew answered that there are approximately 14 employees that have been sworn in as "Deputy Coroners." Councillor Nytes asked of that number, how many employees have taken the certification training course. Ms. Ballew answered that eleven employees have taken the training.

Councillor Sanders said that the statute does not read that the law is effective upon current Coroners and current deputies within a six-month period or immediately. Therefore, she assumes that the guidelines for timeframes, which is six months from the effective date of the law for the Coroner and one year for Deputy Coroners, must be taken into consideration. According to this, Deputy Coroners should not be considered until July 2008. She said that she has been unsuccessful in finding information that states that the law is immediate in the case of current Coroners or Deputy Coroners. She understands that a law cannot be retroactive to the beginning of the term after someone is elected and is serving in an office. Councillor Sanders said that she fully supports that individuals should be certified, but she is concerned that perhaps the statutory language is unconstitutional because the Indiana Constitution defines the requirements for the position of Coroner. She understands that at the time the statute was amended, the legislature was reacting to a tragic incident and was possibly ambitious to show their response to the incident. She said though the law may have been created with the best of intentions, it may not have necessarily been written to the best service of the citizens of the state. She said that it is good that Mr. Gillespie is present to explain his position, because she is concerned that names are identified in an ordinance, rather than

the ordinance being established to keep with the state statute as it is directed toward the office. Councillor Sanders said that she believes that this information should be taken into consideration, and the Committee should attempt to be sure that they are following an amendment to a statute that may or may not be constitutional.

Robert Elrod, General Counsel, City-County Council, said that he does not believe that it is the Council's authority to decide whether or not a law is constitutional, and the effective date was apparently changed in the process of passing the law. He said that this possibly causes some problems with interpretation about how the time periods will be interpreted, because it does not give specifics of the time period. He said that the law states that the Coroner has six months from the date he takes office and the Deputy Coroners have one year from the time of hire, which results in a slightly anomalous situation. However, the language is clear and if the hiring date was more than a year ago for Deputy Coroners and more than six months ago for the Coroner, the law applies. Mr. Elrod added that the Council must also acknowledge that the Council President received a letter from the Indiana State Coroners Board advising him that the three people listed in Proposal No. 82, 2008 were in violation of the statute, and the statute states that the Council *shall* direct the Auditor to withhold the paychecks, unless there are circumstances that change that responsibility. He said that he is slightly concerned that people are being sworn in as Deputy Coroners who are not intended to be Deputy Coroners. Therefore, there is a question as to whether the people should have been designated as such. However, because they have been designated as Deputy Coroners, it is assumed that there is some official record of the designation with the new training board. Otherwise, the Council President would not have received letters specifically naming the persons being addressed in the proposal. Mr. Elrod said that the letter states that the Council is to act on the information that has been provided to them by the state. Chair Pfisterer said that she had the opportunity to speak with Lisa Barker, Executive Director, Indiana State Coroners Training Board, and she provided a list of all of the people that are listed as Deputy Coroners, which is the list that was considered when the letters were being generated. She asked Ms. Ballew if she is stating that the people who are on the roster for the State Training Board as Deputy Coroners are not actually Deputy Coroners. Ms. Ballew answered that she would have to view that roster, as she is unaware of the list. Chair Pfisterer presented the list to Ms. Ballew for her review.

Councillor Malone said that according to the Administrative Code for the State of Indiana, it seems that the Deputy Coroners have been acting in conflict of the given definition. She said that I.C.207-1-1-3 defines Deputy Coroner as a part-time or full-time person appointed by the County Coroner for purposes of providing medical or legal investigation and endorsed by a County Coroner to be authorized to certify a cause of death. Therefore, some of the staff should not be designated as Deputy Coroners and their designations should be revoked. Ms. Ballew said that this practice goes back many years, and it is perhaps something to re-examine in moving forward with respect to the new law. However, this information was not brought to her attention before now.

Chair Pfisterer said that she talked with the Payroll Office and they confirmed that Mr. Gillespie was being paid as the maintenance person, but indicated that Mr. Martin was being paid as a part-time Deputy Coroner. Ms. Ballew said that the salary range for Mr. Martin's position is approximately the same, and although his title may still be listed as Deputy Coroner with Human Resources, he does not currently perform death investigations. Chair Pfisterer said that she believes that information should be clarified.

Councillor Vaughn said that he believes that the process of designating people as Deputy Coroners should be investigated by more than just the Coroner's Office because the law commands the Council to take action. If the Coroner's Office is designating people as Deputy Coroners and they have not completed the certification process, then the Council has no choice in the action that they are ordered to take in advising the Auditor's Office to withhold paychecks. With respect to Deputy Coroners, the law states that the only way to get away from withholding their paychecks is if the Council finds that there are unusual circumstances, the persons are making reasonable progress under the circumstances, and withholding their pay will be unjust. Councillor Vaughn said, as it relates to the two Deputy Coroners that are listed in the ordinance, it can be argued that the circumstances are somewhat unusual, as individuals have been designated as Deputy Coroners who do not serve that function. He asked Mr. Elrod how the Council can remove the issue with the Deputy Coroners from the ordinance to address the two positions separately. Mr. Elrod answered that if the Auditor's Office submitted information to the Council indicating that Mr. Gillespie and Mr. Martin are not performing as Deputy Coroners, then the Council can amend their names out of the ordinance. He added that the Coroner can also certify to the Council that they are not performing as Deputy Coroners and withdraw their designations, because they have been appointed as such. Mr. Elrod said that there have also been instances in which proposals are recommended to the Council subject to obtaining additional information before formal action is taken.

Councillor Bateman said that it is clear that Mr. Gillespie is being paid as a Maintenance Supervisor; therefore, he does not see an issue in determining his position. With regard to Mr. Martin, he said that it seems that there is a matter of re-classifying his current position.

Councillor Nytes said that the Council has always operated in the sense that the Council cannot pass certain issues that affected certain elected officials during their term, but that those changes would affect the next person elected to hold the office. She has always understood that to be the case, because the Constitution prohibits the passage of after-the-fact laws because it impedes the Council's ability to comply with contracts. She said that all of the people affected by this particular proposal accepted their positions before the specified time requirement as stated by the law. For example, the Coroner took the position of Coroner more than six months prior to the effective date of the law. Councillor Nytes said that she does not understand how the law could possibly have been intended to apply to existing office holders. She said that she agrees that the points about the staff should be reviewed, but she does not understand how the Council can apply a statutory change to an elected constitutional office on an incumbent. Mr. Elrod said that the act does not remove the Coroner from office, but it has placed a state requirement on his compensation. He said that the Coroner may have the right to argue whether or not the statute is unconstitutional, but he does not believe that the Council can make that decision. He said that he believes that there is a constitutional issue about whether the validity of withholding the salary from an official is appropriate; however, the legislature commanded the Council to do so.

Councillor Sanders said that she has not had the opportunity to see the letters to which Mr. Elrod is referring that have been sent to the Council President, and she believes that it would be appropriate for all of the Committee members to receive copies of the letters. She said that she still questions whose decision it was that a six-month time frame prevails across all of the individuals, as though it was decided that January 1 was the date that the law applied to everyone currently working in the

Coroner's Office, which may be reflected in the letters. However, the statute does not specify that it should be interpreted that way. Chair Pfisterer said that she will ensure that the Committee receives a copy of the letters. Councillor Sanders asked if the letters cite anything that gives Ms. Barker the authority to impose a January 1 date. Mr. Elrod answered that Ms. Barker simply interpreted the statute that way. He said in the case of the Deputy Coroners, Ms. Barker states that the law requires that the Deputy Coroner must successfully complete the training course within one year after beginning employment with the Coroner's Office. Councillor Sanders said that she understands that the law requires that, and Mr. Gillespie has been employed with the Coroner's Office for more than a year, but the law has only existed for six months. Mr. Elrod said that Ms. Barker is suggesting that the time periods were automatic once the law was in effect. He said that the State Training Board is obligated, under statute, to notify the Council if the certification has not been obtained.

Councillor Bateman said with respect to the compensation of an elected official, I.C. #36-2-5-13 (b), states that the compensation of an elected county officer may not be changed in the fiscal year in which it is fixed. Therefore, this causes a conflict in the interpretation of how the Council is to move forward with the legislation that was recently passed. Chair Pfisterer said that the Coroner's compensation is not intended to be changed, only withheld until the test is passed. Councillor Sanders said that withholding compensation is changing it. Chair Pfisterer replied that change implies that the amount of the compensation will be changed. Councillor Vaughn said that there is no change in the compensation level, and full compensation will be received by the Coroner upon completion of the requirements. Gregory Gadsen, Dr. Ackles' attorney, said that the Council has been given an edict from the legislature stating that they are to withhold pay. However, the problem is that the statute was poorly drafted. He said that he believes that this portion of the statute is unenforceable for a number of reasons; primarily because of the conflict between this particular law and an existing law about changing the pay of elected officials. Though a distinction can be drawn between a suspension and a pay raise or withholding, the practical matter is that the elected official receives less or different compensation than he received prior to this statute. Mr. Gadsen said that it is possible that the legislature did not consider the existing legislation in their rush to judgment, but the Council is in the awkward position of determining which law to follow. Technically, the existing statute should have either been repealed or modified. Mr. Gadsen said that the statute concerning the compensation of elected officials was originally passed in the 1980s, with possible modifications as recent as 2005. He said that he also believes that there are constitutional problems with the new law and agrees that they should possibly be addressed in the courts. However, the Council must decide to either violate the old law by following the new law or try to interpret the new law to deprive the Coroner of his salary. Mr. Gadsen said that he believes that there is a problem with changing an elected constitutional officer's salary in the middle of his term. He said that there is also an issue with unintended consequences in cases such as Mr. Gillespie, in which the statute is poorly drafted to specify a person's title as opposed to their job function or role. He said that with respect to I.C. #36-2-5-13 (b), the Coroner's salary has been fixed, and there are no exceptions to that statute. He added that Dr. Ackles is not a newly elected county officer. He said that the Council is not being asked to ignore the legislature, but there are problems with the statute that should be addressed before the Coroner's pay is affected.

Councillor Pfisterer said that Dr. Ackles' completion of the test would resolve all of the questions and concerns. She asked Mr. Gadsen if he knows Dr. Ackles' position with regard to completion.

Mr. Gadsen answered in the negative. He said that his understanding is that Dr. Ackles has completed the training and is willing to bring his certification into compliance, but the issue is whether or not his pay should be withheld, as it conflicts with an existing law. He said that he and Dr. Ackles do not believe that it is the role of the legislature, nor the Council, to deprive Dr. Ackles of livelihood under the circumstances. Chair Pfisterer reiterated that the Council has no choice but to abide by the legislation they have received. Mr. Gadsen said that another problem is that the statute does not specify that a test must be passed, but only that training must be completed. Conversely, non-elected people have determined that an examination must be passed in order to receive certification. Ms. Ballew said that Dr. Ackles took the required training course in 2005 when he was initially elected, but there was no law that required certification. She said that when the new legislation was passed, he took the training course again to prepare for the examination. She believes that he is approximately two-thirds through the testing process.

Councillor Malone asked why Dr. Ackles did not attend the Committee meeting. Mr. Gadsen answered that Dr. Ackles had previous engagements and felt that the response to this particular issue would be more aptly handled by someone with legal training. Councillor Malone stated that the concern is that questions are being asked relative to Dr. Ackles' status on obtaining certification in order to determine whether or not withholding his pay is unjust. Mr. Gadsen said that, nevertheless, he believes that the issue is a legal one, because the Council has the task of trying to comply with two different laws. Councillor Vaughn said that he does not see that the laws conflict, because the Coroner is accruing pay and entitled to it upon completion of the requirement. He said that the intention of the law is to act as an incentive to complete the program.

Councillor Vaughn said with respect to the statute being unclear on titles, he does not feel that it is an issue, as the title and the Indiana Administrative Code are clear as to what constitutes a Deputy Coroner. The problem is with those receiving the title within the Coroner's Office. He said that, on the other hand, the Coroner has had six months to complete the training, which has not been done. He said that, according to the statute, it is the Coroner's obligation to present evidence that training has been completed. Councillor Vaughn added that the Coroner's pay level is not being changed, the disbursement is being altered based on the Coroner's inaction.

Councillor Nytes asked if the Coroner is still required to sign death certificates during the time his pay is being held. Councillor Vaughn answered that there is nothing in the law that affects Dr. Ackles' functions, modifies his responsibilities, or affects his authority as a Coroner. Councillor Nytes asked if Dr. Ackles is to report to work, perform all of his responsibilities and not receive pay. Councillor Vaughn answered that he would receive pay upon completion of the training and presentation of a certificate to the Council. Councillor Nytes said that was not the case when Dr. Ackles was elected, and she believes that the statute is intended to apply upon election of a new Coroner.

Councillor Sanders commented that if, by law, an individual is required to be certified to perform a specific job, then it is a contradiction to expect that person to continue to perform his duties without the certification. She is concerned that the only consequence is withholding pay, but not suspension from the job, and she questions what the certification accomplishes. Councillor Vaughn said that as an attorney, there are continual legal requirements that must be filled. If those requirements are not being filled, notification will be sent which indicates that disciplinary action may be taken if the

requirements are not filled within a specific time frame. However, an attorney's license is not immediately suspended, nor is their ability to continue to practice law. In this particular case, the Coroner is still functional, but will not get paid until the requirement is obtained.

Councillor Day asked if Dr. Ackles has taken the training course, why the certification test has not been completed. Mr. Gadsen said that it is his understanding that Dr. Ackles did not pass the test. Councillor Day asked if the test can only be taken once. Ms. Ballew answered that there is a training process that is offered twice per year and the opportunity to take the exam two or three times per year. She said that she is aware of one incident in which Dr. Ackles attempted to take the test via satellite at an Ivy Tech campus, but Dr. Ackles experienced multiple problems with the computer program. An assistant must be present during the test, and the assistant witnessed all of the problems with the program. Ms. Ballew said that a test was offered on site about one month later, where Dr. Ackles took some portions of the exam. She said that there are about ten portions of the examination, and to avoid encountering any problems, the tests can be taken when offered by the State Training Board. She added that the next testing date that the State Training Board will administer is unknown at this time. Ms. Ballew said that Dr. Ackles will complete the last two portions of the exam at the next testing opportunity. Chair Pfisterer asked if Dr. Ackles has made arrangements to complete the test. Ms. Ballew answered in the affirmative. Chair Pfisterer asked when Dr. Ackles will complete that test. Ms. Ballew answered that he will complete the testing the next time the Training Board offers the test. Councillor Day asked if Dr. Ackles has made arrangements with the Training Board. Ms. Ballew answered in the affirmative.

Chair Pfisterer said that her concern is with the wider intent of the legislation that was passed. She said that a tragic situation impelled the legislature to address it so that legal ramifications could be clarified throughout the state and addressed in the most sensible way. She said that she understands that the importance of the certification is to raise the level of the state, and she understands that there are only two coroners, including Dr. Ackles, in the State of Indiana who have not received certification. Chair Pfisterer urged Dr. Ackles to obtain the certification as quickly as possible. Ms. Ballew said that Dr. Ackles is addressing the issue; however, there was no law for a Coroner to even take the training prior to this legislation. She said that, nonetheless, she does understand that there are major ramifications of the new law that affect the state. She said that there is currently a two-part step that mandates the training and certification; whereas, nothing was required prior to. Chair Pfisterer asked if the certification training is different now than it was when Dr. Ackles studied it before. Ms. Ballew answered in the negative, and stated that there are some added portions.

Councillor Bateman said that the enhanced portion of the training includes crime scene investigation, which Dr. Ackles does not perform. He simply signs the death certificate based on the information that he receives from the Deputy Coroners who perform death investigations. He said that Dr. Ackles has completed 17 out of 19 sections of the certification process. Councillor Bateman said that he has an issue with the duality of the law, in which the Council is expected to withhold compensation if Dr. Ackles does not pass certification, but on the other hand, Dr. Ackles is expected to continue to operate in the function of Coroner. Chair Pfisterer said that Dr. Ackles was elected to serve in his function, just as other elected officials. Councillor Bateman said that, however, the only requirements when Dr. Ackles was elected were term limitations and residency. He said that he agrees that Dr. Ackles needs to complete the certification, but he should not be

penalized on a requirement that was added after he took office. Mr. Elrod stated that he is not aware if certification verifications have been provided to the Council for any of the Deputy Coroners of the Coroner's Office. He added that since there are Deputy Coroners who have completed the training and certification, the Coroner's Office would be able to continue to function in the event that action is taken against the Coroner. Mr. Elrod said that verification of those certificates needs to be forwarded to the Council. Chair Pfisterer said that she assumes that the Council has not received letters with regard to other Deputy Coroners because perhaps the time frame that they are required to have training completed has not yet happened. Ms. Ballew said that she is confused by this process because one particular person that is being targeted at the end of March has been employed for a year, but did not complete the training until October 2007.

Councillor Sanders recommended that the Committee obtain the information from the Training Board as to what constitutes completed training and when training is scheduled around the state. She said that the Committee does not have adequate information and is at the mercy of the Training Board in their assumption of how they believe the law should be applied. She commented that she is not sure that the Training Board has the authority to make assumptions of how they feel a law should be applied. She said that she feels very uncomfortable coming to any conclusion on Proposal No. 82, 2008 at this time, but she does not question that Dr. Ackles should be held accountable based on the position that he holds.

Councillor Sanders moved, seconded by Councillor Bateman, to "Table" Proposal No. 82, 2008, until further information can be obtained. The motion failed by a vote of 3-4, with Councillors Day, Malone, Pfisterer, and Vaughn casting the negative votes.

Councillor Nytes stated that she is concerned that the Training Board is issuing letters based on job titles, and some titles are not appropriately given according to state law. She said that she would like to have the Coroner's Office meet with Human Resources to immediately review the job descriptions and classifications of their employees to determine which positions are consistent with the statutory definition of a Deputy Coroner. She said that she feels that the Committee will be in a position to review the practices of the Coroner's Office once that has been established. Councillor Nytes said that she is also concerned that there is no indication as to when the next testing date is available. She feels that this obstacle causes an undue hardship for the Coroner, as the Council is expected to suspend his pay, yet the Coroner is expected to continue to work on a daily basis. She asked that the Committee work to obtain more information before moving forward with the proposal.

Councillor Day said that Dr. Ackles had the opportunity to attend the meeting in an attempt to help the Committee understand the processes in question. Councillor Sanders said that Indiana state law requires employers to provide pay for workers that perform their jobs within a two-week period. Councillor Vaughn said that does not apply to elected officials.

Councillor Malone asked Mr. Gadsen if he is representing the Coroner personally or representing the Coroner's Office. Mr. Gadsen answered that he is representing the Coroner personally. He added that he and Dr. Ackles did not anticipate that there would be questions as to Dr. Ackles' status of completing certification.

Councillor Vaughn said that his understanding of the statute, with regard to Deputy Coroners, is that the Council can authorize to pay Deputy Coroners if unusual circumstances are discovered. Due to the fact that there are unusual circumstances and withholding pay would be unjust, Councillor Vaughn moved, seconded by Councillor Sanders, to “Amend” Proposal No. 82, 2008 to strike the names of “Michael Gillespie” and “John Martin” from the ordinance, and to remove all references to deputy coroners and make appropriate grammatical corrections. The motion carried by a vote of 7-0.

Councillor Vaughn moved, seconded by Councillor Malone, to forward Proposal No. 82, 2008 to the full Council with a “Do Pass as Amended” recommendation. The motion carried by a vote of 4-3, with Councillors Bateman, Nytes and Sanders casting the negative votes.

PROPOSAL NO. 116, 2008 - appoints Richard Petrecca to the County Property Tax Assessment Board of Appeals

Chair Pfisterer said that Mr. Petrecca is unable to attend the meeting. Councillor Day moved, seconded by Councillor Vaughn, to “Postpone” Proposal No. 116, 2008 until March 25, 2008. The motion carried by a vote of 7-0.

Conclusion

With no further business pending, and upon motion duly made, the Administration and Finance Committee of the City-County Council was adjourned at 7:14 p.m.

Respectfully submitted,

Marilyn Pfisterer, Chair
Administration and Finance Committee

MP/nsm